

### **REMARKS**

Reconsideration and allowance of the present application based on the following remarks are respectfully requested.

Upon entry of this response, claims 1, 2, 7, 8, 11, 12, 14, 15, 17–19, 36, 38, and 40–45 will be pending. Claims 1 and 40 have been amended.

#### ***Claims Rejections Under 35 U.S.C. § 103***

A. Claims 1, 2, 7, 8, 14, 17, and 18 were rejected under 35 U.S.C. § 103(a) over Derr (U.S. Patent No. 1,869,844) in view of Nelson et al. (U.S. Patent No. 5,325,795). Applicant respectfully traverses this rejection.

Amended claim 1 recites, in part, an apparatus that includes a frame, one or more removable trays that are vertically stackable and adapted to be laterally inserted in the frame, and a manifold for removal of gases that is positioned on top of apparatus and configured to pull air through orifices in a bottom of the one or more trays and into the manifold.

In contrast, Derr discloses a method for recovering metal from coated metal foils using a plurality of units (See, Figure 1). Each unit 1 includes a basket 14 and gas tight retort 1 within a combustion chamber 2. Derr discloses that a plurality of the entire gas tight retorts 1, not the removable trays as recited in claim 1, can be used in a single apparatus. Further, Derr does not teach that the retorts 1 are even vertically stackable, since, as seen in Figure 1, one retort 1 appears to be hanging above the other without any means for staking the two. Additionally, the retort 1 which contains the basket 14 in Derr is gas tight. Specifically, Derr is concerned with maintaining a low oxygen atmosphere to avoid carbon residue. Accordingly, Derr discloses maintaining a low oxygen atmosphere. In fact, Derr is silent regarding pulling air from under a tray and into the manifold as recited in claim 1. As described in the originally filed specification, this method of pulling air through the apparatus maintains a lower pressure on the matrices which in turn creates a more effective heating. Since the retort 1 in Derr is gas tight, Derr actually teaches away from pulling air through orifices in a bottom of the one or more trays and into the manifold, as recited in claim 1. Although Derr discloses a blower 31, the blower 31 is for recirculation to control the amount of air in the retort 1, not to pull air from under a tray. Additionally, Nelson does not remedy at least these deficiencies of Derr since Nelson is silent regarding these features of claim 1. Accordingly, no combination of Derr and Nelson teach or suggest, an apparatus that

includes a frame, one or more removable trays that are vertically stackable and adapted to be laterally inserted in the frame, and a manifold for removal of gases that is positioned on top of apparatus and configured to pull air through orifices in a bottom of the one or more trays and into the manifold, as recited in amended claim 1.

Claims 2, 7, 8, 14, 17, and 18 are believed allowable for at least the reasons presented above with respect to claim 1 by virtue of their dependence upon claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

**B.** Claims 1, 2, 7, 8, 11, 14, 17-19, 36, and 40-45 were rejected under 35 U.S.C. § 103(a) over Franz et al. (DE 196 08 002) in view of Nelson. Applicant respectfully traverses this rejection.

Amended claims 1 and 40 each recite, in part, an apparatus that includes a frame, one or more removable trays that are vertically stackable and adapted to be laterally inserted in the frame, and a manifold for removal of gases that is positioned on top of apparatus and configured to pull air through orifices in a bottom of the one or more trays and into the manifold.

In contrast, Franz discloses a device for soil isolation that includes a chamber module 2 with a cover 3 that are configured to be gas tight. Additionally, as previously discussed, the device also includes a carrying module 13 that is integral with a heating module 1. Given the configuration required by Franz, it is apparent that the modules 2 are not configured to be vertically stacked or laterally inserted into the frame (See, for example, pages 4 and 5 of the English Translation and Figures 1, 2, and 5). Further, since Franz requires a gas tight configuration to maintain the pressure of the chamber, Franz does not teach or suggest, pulling air through orifices in a bottom of the one or more trays and into the manifold, as recited in claims 1 and 40. As described in the originally filed specification, this method of pulling air through the apparatus maintains a lower pressure on the matrices which in turn creates a more effective heating. Since the device in Franz is gas tight, Franz actually teaches away from pulling air through orifices in a bottom of the one or more trays and into the manifold, as recited in claims 1 and 40. Although Franz discloses a vapor pump 49, the pump is for withdrawing water vapor from the collected gas, not for pulling air through the orifices in the bottom of the tray. Additionally, Nelson does not remedy at least these deficiencies of Franz since Nelson is silent regarding these features of claim 1. Accordingly, no combination of Franz and Nelson teach or suggest, an apparatus that includes a frame, one or more removable trays that are vertically stackable and adapted to be laterally inserted

in the frame, and a manifold for removal of gases that is positioned on top of apparatus and configured to pull air through orifices in a bottom of the one or more trays and into the manifold, as recited in amended claims 1 and 40.

Claims 2, 7, 8, 11, 14, 17-19, 36, and 41-45 are believed allowable for at least the reasons presented above with respect to claims 1 and 40 by virtue of their dependence upon claims 1 and 40. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

**C.** Claim 12 was rejected under 35 U.S.C. § 103(a) over Franz in view of Nelson and further in view of Sewell et al. (U.S. Patent No. 682,118). Applicant respectfully traverses this rejection.

Claim 12 is believed allowable for at least the reasons presented above with respect to claim 1 by virtue of its dependence upon claim 1 and because Sewell does not remedy the deficiencies of Franz in view of Nelson discussed above with respect to claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

**D.** Claim 15 was rejected under 35 U.S.C. § 103(a) over Franz in view of Nelson and further in view of Schultz et al. (U.S. Patent No. 4,924,785). Applicant respectfully traverses this rejection.

Claim 15 is believed allowable for at least the reasons presented above with respect to claim 1 by virtue of its dependence upon claim 1 and because Schultz does not remedy the deficiencies of Franz in view of Nelson discussed above with respect to claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

**E.** Claim 38 was rejected under 35 U.S.C. § 103(a) over Franz in view of Nelson and further in view of Nora et al. (EP 0 695 214). Applicant respectfully traverses this rejection.

Claim 38 is believed allowable for at least the reasons presented above with respect to claim 1 by virtue of its dependence upon claim 1 and because Nora does not remedy the deficiencies of Franz in view of Nelson discussed above with respect to claim 1. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

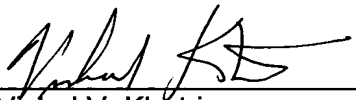
**Conclusion**

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

MAYER BROWN ROWE & MAW LLP

By:   
Vishal V. Khatri  
Registration No. 51,873  
Direct No. (202) 263-3341

Mark G. Paulson  
Registration No. 30,793  
Direct No. (202) 263-3310

Intellectual Property Group  
1909 K Street, N.W.  
Washington, D.C. 20006-1101  
(202) 263-3000 Telephone  
(202) 263-3300 Facsimile

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